

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

**PEDIPIED INFANT FOOTWEAR LLC,**

**Plaintiff,**

**v.**

**KUDOS LEATHERGOODS LTD. d/b/a**

**Jack and Lily, and ROBERT THOMAS  
BUELL,**

**Defendants.**

**No. 08 Civ. 3572 (LTS)(THK)**

**ANSWER,**  
**AFFIRMATIVE DEFENSES.**

**JURY DEMAND**

Defendant, Robert Thomas Buell ("Buell" or "Defendant"), by and through his attorneys, Alston & Bird LLP, answers the First Amended Complaint of Pediped Infant Footwear LLC ("Pediped" or "Plaintiff") as follows:

1. This paragraph is a legal conclusion and does not call for an answer.
2. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph of the Complaint, and therefore deny them.
3. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph of the Complaint, and therefore deny them.
4. Admitted.
5. Admitted.

6. It is admitted that Buell is president of Kudos Leather Goods Ltd. ("Kudos") and that he lives and works at the stated addresses, but denies the remaining allegations contained in this paragraph.

7. It is admitted that Buell is involved in the day-to-day business operations of Kudos, but denies the remaining allegations contained in this paragraph.

8. This paragraph is a legal conclusion and does not call for an answer.

9. Admitted.

10. Denied.

11. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph of the Complaint, and therefore deny them.

12. Admitted as to the products at issue.

13. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph of the Complaint, and therefore deny them.

14. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph of the Complaint, and therefore deny them.

15. Denied.

16. Denied.

17. Denied.

18. Denied.

19. Denied.

20. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph of the Complaint, and therefore deny them.

21. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph of the Complaint, and therefore deny them.

22. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph of the Complaint, and therefore deny them.

23. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph of the Complaint, and therefore deny them.

24. Defendant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in this paragraph of the Complaint, and therefore deny them.

25. Denied.

26. Admitted as to the products at issue.

27. Admitted.

28. Denied.

29. Denied.

30. Denied

31. Denied.

32. Denied.

33. Denied.

34. Denied.

35. Denied.

36. Denied.

37. Denied.

38. Denied.

39. Denied.

40. Denied.

41. Defendant Buell admits that <http://www.jackandlily.com> is defendant Kudos' website, admits that certain products were displayed, but denies all other aspects of the allegations contained in this paragraph.

42. Denied.

43. Denied.

44. Denied.

45. Defendant Buell admits that a letter was hand delivered to Defendant Kudos on or about March 11, 2008, and admits that Defendants did not give any indication as to how they would respond to the letter at that time. Defendant Buell denies all other aspects of the allegations contained in this paragraph.

46. Denied.

47. Denied.

48. Denied.

49. Denied.

50. Denied.

51. Defendant Buell admits that this cause of action arises under the Lanham Act, but denies all other aspects of the allegations contained in this paragraph.

52. Defendant Buell repeats his response to the forgoing referenced paragraphs.

53. Denied.

54. Denied.

55. Denied.

56. Denied.

57. Denied.

58. Denied.

59. Defendant Buell admits that this cause of action arises under the Lanham Act, but denies all other aspects of the allegations contained in this paragraph.

60. Defendant Buell repeats his response to the forgoing referenced paragraphs.

61. Denied.

62. Denied.

63. Denied.

64. Denied.

65. Defendant Buell repeats his response to the forgoing referenced paragraphs.

66. Denied.

67. Denied.

68. Denied.

69. Denied.

70. Denied.

71. Denied.

72. Denied.

73. Defendant Buell repeats his response to the forgoing referenced paragraphs.

74. Denied.

75. Denied.

76. Denied.

77. Denied.

78. Denied.

79. Denied.

80. Denied.

81. Defendant Buell repeats his response to the forgoing referenced paragraphs.

82. Denied.

83. Denied.

84. Denied.

85. Denied.

86. Denied.

87. Denied.

**AFFIRMATIVE DEFENSES**

1. The Complaint fails to state a claim upon which relief may be granted.
2. Plaintiff's alleged trade dress is invalid.
3. Plaintiff's claims are barred, in whole or in part, by the doctrines of waiver, consent and estoppel.
4. Plaintiff's claims are barred by the equitable doctrine of laches.
5. Plaintiff's claims are barred, in whole or in part, by the doctrine of unclean hands.

**JURY DEMAND**

Defendant demands a trial by jury of all issues so triable.

**PRAYER FOR RELIEF**

WHEREFORE Defendant respectfully request that this Court enter judgment:

- A. dismissing Plaintiff's First Amended Complaint in its entirety;
- B. denying Plaintiff's demand for injunctive relief in its entirety;
- C. declaring that Plaintiff has no valid trade dress claimed in the Complaint;
- D. declaring that Defendant has not and does not infringe Plaintiff's alleged trade dress alleged in the Complaint;
- E. granting Defendant an award of his costs and attorneys fees incurred in defending this action;
- F. granting such other and further relief as the Court finds just and proper.

Dated: New York, New York  
June 30, 2008

Respectfully submitted,

ALSTON & BIRD LLP

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